

June 17, 2011

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
June 17, 2011

I. OPENING OF MEETING AT 11:07 A.M. AT 160 N. LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (by telephone); Roneta Taylor (by telephone) and Mark Magill (by telephone), Illinois Department of Central Management Services; Stephen Konya, Illinois Department of Commerce & Economic Opportunity; and Carolyn Williams Meza and Richard Foxman, Illinois Department of Healthcare and Family Services.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD ON MAY 20, 2011

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY CHAIRMAN KOLKER, AND THE MOTION ADOPTED 3-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON MAY 20, 2011.

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions from Central Management Services

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	147	10
Agriculture.....	418	17
Arts Council.....	19	2
Capitol Development Board	46	0
Central Management Services	1,373	111
Children and Family Services.....	2,910	49
Civil Service Commission	4	0
Commerce & Economic Opportunity	422	66
Commerce Commission.....	79	0
Corrections.....	11,851	103
Criminal Justice Authority.....	62	5
Deaf and Hard of Hearing Comm.	7	1
Developmental Disabilities Council	9	1
Emergency Management Agency	88	7
Employment Security	1,868	29
Environmental Protection Agency.....	884	16
Financial & Professional Regulation	470	41
Gaming Board.....	100	5
Guardianship and Advocacy	104	7
Healthcare and Family Services.....	2,266	25
Historic Preservation Agency	185	9
Human Rights Commission	14	2
Human Rights Department	150	8
Human Services	13,450	77
Illinois Torture Inquiry Relief Commission.....	2	1
Insurance.....	249	12
Investment Board.....	3	1
Juvenile Justice	1,242	20
Labor.....	77	7
Labor Relations Board Educational	12	2
Labor Relations Board State	16	2
Law Enforcement Training & Standards Bd.....	18	2
Medical District Commission	2	0
Military Affairs.....	121	3
Natural Resources	1,218	26
Pollution Control Board.....	21	1
Prisoner Review Board	19	0
Property Tax Appeal Board	28	1
Public Health	1,087	40
Racing Board	2	0
Revenue	2,037	57
State Fire Marshal.....	137	12
State Police	1,273	4
State Police Merit Board.....	5	1
State Retirement Systems	87	2
Transportation.....	2,363	0
Veterans' Affairs	1,234	8
Workers' Compensation Commission	173	8
TOTALS	48,352	801

Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
 - 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

* * *

B. Requests for 4d(3) Exemption

Commissioner Raymond W. Ewell arrived. Executive Director Daniel Stralka reported:

- As to Item C1, this request is for the Special Assistant for Managed Care at the Department of Healthcare and Family Services, a position that reports to the Director. This position has principal responsibility for policy development for the Managed Care program. This program is responsible for implementing a major initiative from the Administration to test a number of new models of medical care coordination for the 500,000 anticipated new Medicaid recipients in 2014. While Staff had no issues with the nature of this complex program to support one or more principal policy exempt positions, there was a concern that there may be overlap with other already exempt 4d(3) positions at the agency. The agency indicated these other positions are devoted to current medical programs at the agency as opposed to this newly requested position. Staff was simply unable to verify the absence of overlap in time for the meeting, though it acknowledges the mission of the agency lends legitimacy to this explanation. Richard Foxman, Deputy Director-Human Resources, Illinois Department of Healthcare and Family Services, explained how there was no overlap with already-exempt positions and how this position is charged with a new program resulting from the federal Affordable Health Care Act of 2009. In response to a question from Chairman Kolker, Richard Foxman indicated that all of its duties are a result of programs resulting from this Act. Foxman also clarified for Commissioner Peterson that this position will be the policy maker for all programs under this Act. Chairman Kolker inquired as to the position's collective bargaining unit status. Richard Foxman indicated it has not been included in one and the high level of this position made inclusion unlikely. Commissioner Peterson asked about the qualifications of a successful candidate and Foxman indicated a health care consultant or hospital executive would be preferred. Commissioner Dalianis asked for clarification as to the number of residents affected by the Managed Care program. Richard Foxman responded that with the expansion of eligibility criteria under the Act, it is anticipated to rise from 1,000,000 to 1,500,000.
- As to Item C2, this request is for the Special Assistant for Long Term Care at the Department of Healthcare and Family Services, a position that reports to the Director. This position has principal responsibility for policy development for the Long Term Care program. This program has been the subject of recent legislative initiatives, and this position is needed to coordinate long term care reform activities not only within this agency but with related State agencies. One of these reforms is to move recipients from nursing facilities to home and community based settings, similar to a recent request from Human Services involving the developmentally disabled. The Department of Healthcare and Family Services is the agency that is responsible for guaranteeing quality and cost effective services consistent with federal policy in this area. This position has the principal programmatic responsibility to develop and implement these reform efforts. For these reasons, Staff recommended approval of this request.

- As to Item D, this request is for the Assistant Deputy Director in the Office of Trade and Investment (OTI) for the Department of Commerce and Economic Opportunity, a position that reports to the Deputy Director who reports to the agency Director. This is another request from the agency for an Assistant Deputy Director position for a program that has a 4d(3) exempt Deputy Director. There presently are nine such exempt positions in the agency. The agency is basing this request on the programmatic scope of the OTI. The office develops complex economic strategies that have a worldwide impact. This position must analyze economic data to determine future Illinois economic trends and then work with other exempt staff in various geographic areas of the world to develop strategies to best exploit these trends in their respective geographic areas for the benefit of Illinois businesses. The current administration is committed to investing resources to increase Illinois exports with a goal of doubling them in the next five years. As of 2009, Illinois exports totaled more than \$41 billion, and 2010 saw a 20% increase. Exports have increased again so far this year. Given the nature of the OTI program and its demonstrated strategic importance to the current administration, Staff recommended approval of this request. Stephen Konya, Chief of Staff, Illinois Department of Commerce and Economic Opportunity, indicated that the agency remains on pace to double exports as indicated above. He added that there are more than 18,000 manufacturers in the State that are affected by this program. In response to a question from Commissioner Peterson, Stephen Konya stressed that the administration is giving a renewed emphasis to the OTI program. It is undergoing a reexamination to ensure the resources which have been in place for many years now are still being deployed in a manner that would benefit the State the most in the current global economic market. This position will play a significant role in this process in accordance with its long-term planning responsibilities.
- As to Item E, this request is for the Chief Public Safety Advisor for the Illinois State Police, a position that reports to the Director. This position has principal responsibility for long-range planning in the agency by analyzing statewide public safety issues along with available resources to formulate new policies to address these issues. This position essentially functions as a strategic planner for the State Police and is the sole position charged with these responsibilities. In addition, this position was previously exempt but the exemption was rescinded in August 2009 due to extended vacancy. For these reasons, Staff recommended approval of this request.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

- C1: Special Assistant for Managed Care (Healthcare and Family Services)**
- C2: Special Assistant for Long Term Care (Healthcare and Family Services)**
- D: Assistant Deputy Director, Trade and Investment
(Commerce & Economic Opportunity)**
- E: Chief Public Safety Policy Advisor (Illinois State Police)**

The following 4d(3) exemption requests were granted on June 17, 2011:

C1. Illinois Department of Healthcare and Family Services

Position Number	40070-33-00-600-00-61
Position Title	Senior Public Service Administrator
Bureau/Division	Office of the Director
Functional Title	Special Assistant for Managed Care
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

C2. Illinois Department of Healthcare and Family Services

Position Number	40070-33-00-800-00-21
Position Title	Senior Public Service Administrator
Bureau/Division	Office of the Director
Functional Title	Special Assistant for Long Term Care
Incumbent	Vacant
Supervisor	Director
Location	Cook County

D. Illinois Department of Commerce & Economic Opportunity

Position Number	40070-42-00-090-05-01
Position Title	Senior Public Service Administrator
Bureau/Division	Trade and Investment
Functional Title	Assistant Deputy Director, Trade and Investment
Incumbent	Vacant
Supervisor	Deputy Director, Trade and Investment who reports to the Director
Location	Cook County

E. Illinois State Police

Position Number	40070-21-00-000-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Chief Public Safety Policy Advisor
Incumbent	Vacant
Supervisor	Director
Location	Cook County

June 17, 2011

V. CLASS SPECIFICATIONS

- None submitted.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

June 17, 2011

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 12:10 p.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (by telephone); Beth Solomon, Illinois Department of Children and Family Services; and Charles Bloomster, Carmen Masus, Inis Bloomster, and Rita McGeary.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	4/30/11	5/31/11	5/31/10
Central Management Services	1	1	0
Children and Family Services	2	2	6
Employment Security	5	12	2
Healthcare and Family Services	3	4	0
Historic Preservation Agency	1	0	1
Human Services	1	2	2
Natural Resources	9	5	0
Property Tax Appeal Board	3	6	1
Transportation	1	0	0
Veterans' Affairs	0	1	0
Totals	26	33	12

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

DA-40-10

Employee	Amanda E. Moren	Appeal Date	03/01/10
Agency	Children and Family Services	Decision Date	06/03/11
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Falsification; failure to follow rules/procedures; conduct unbecoming a state employee	Proposal for Decision	Charges are partially proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 3-2 THE MOTION ADOPTED TO AFFIRM, MODIFY, AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE CHARGES ARE PARTIALLY PROVEN AND WARRANT DISCHARGE. THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE DO NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION.

AS TO CHARGE I.B (S FAMILY INVESTIGATION), THE EVIDENCE INDICATED THAT MOREN MADE A MISTAKEN ENTRY, AND HER ACTIONS WERE NOT INTENTIONAL. THE TESTIMONY OF THE FOSTER PARENT CONTAINED AMPLE INCONSISTENCIES TO NOT BE SUFFICIENTLY CREDIBLE ON THE ISSUE OF MOREN'S STATE OF MIND WHEN MAKING THE INACCURATE COMPUTER ENTRY AND THAT MOREN SOLICITED A FALSE WRITTEN STATEMENT FROM HER. OTHER CREDIBLE EVIDENCE EXISTED TO INDICATE THAT THE COMPUTER ENTRY WAS SIMPLY INADVERTENT ERROR AND NOT CONSCIOUS FALSIFICATION SUCH AS THE TIME OF DAY IT OCCURRED, THE NUMBER OF HOURS MOREN HAD WORKED THAT DAY, AND HER PHYSICAL CONDITION. THE AGENCY'S OWN WITNESS HAD INDICATED THAT A MISTAKE WOULD NOT WARRANT DISCHARGE. THERE WAS INSUFFICIENT EVIDENCE TO IDENTIFY WHAT MOREN STOOD TO GAIN FROM AN INTENTIONAL MISREPRESENTATION IN THIS CASE.

IN ADDITION, THE EVIDENCE FURTHER INDICATED THAT AS TO CHARGE I.D AND I.I.D (FALSIFICATION OF OVERTIME SLIPS) THERE WAS SUFFICIENT EVIDENCE TO INDICATE THAT THE TIMEKEEPING PRACTICES AT THE ROCKFORD OFFICE WERE INCONSISTENT. RYLATT'S TESTIMONY AS TO HER PRACTICES WAS NOT CREDIBLE SINCE THE INVESTIGATORS UNCOVERED EIGHTEEN OVERTIME SLIPS (OUT OF NINETEEN) THAT CONTRADICTED HER TESTIMONY THAT RYLATT INITIALED ALL CHANGES. GRAHAM'S TESTIMONY AS TO HER PRACTICES WAS NOT CREDIBLE AS THE DOCUMENTARY EVIDENCE SHOWED THAT SHE DID NOT CONSISTENTLY APPLY THE TIMEKEEPING

PRACTICES SHE TESTIFIED TO. IN ADDITION, THE AGENCY DID NOT PROVIDE ANY TESTIMONY TO REBUT MOREN’S ASSERTIONS THAT CHANGES TO THESE OVERTIME FORMS WERE MADE AS PART OF GRAHAM’S INFORMAL OVERTIME ACCOUNTING PROCESS. FOR THESE REASONS, SAID PARTIALLY PROVEN CHARGES WARRANT A 90-DAY SUSPENSION IN LIEU OF DISCHARGE.

**KOLKER NO EWELL YES
 PETERSON YES DALIANIS NO
 BUKRABA YES**

DA-29-11

Employee	Shirley A. Robinson	Appeal Date	11/15/10
Agency	Human Services	Decision Date	05/31/11
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences; tardiness	Proposal for Decision	Charges are proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION THAT THE CHARGES ARE PROVEN AND WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MAY 31, 2011.

**KOLKER YES EWELL YES
 PETERSON YES DALIANIS YES
 BUKRABA YES**

DA-30-11

Employee	Connie Haverfield	Appeal Date	11/17/10
Agency	Human Services	Decision Date	06/03/11
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Recipient abuse and neglect	Proposal for Decision	Charges are proven and warrant discharge.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSAL FOR DECISION THAT THE CHARGES HAVE BEEN PROVEN AND WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED JUNE 3, 2011.

June 17, 2011

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. APPEAL TERMINATED WITHOUT DECISION ON THE MERITS

DA-51-10

Employee	Thomas F. Kilby	Appeal Date	5/20/10
Agency	State Retirement Systems	Decision Date	6/07/11
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Misuse of state equipment; conduct unbecoming	Proposal for Decision	Dismissed subject to approval of Commission; settled.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION TO DISMISS THE APPEAL.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XI. STAFF REPORT

Executive Director Daniel Stralka reported:

- The General Assembly passed a fiscal year 2012 appropriation bill that contained an 18% reduction for the Commission. Efforts are being made to restore this funding. There was a general discussion among the Commissioners about the State's current fiscal situation in general.
- The General Assembly passed a new bill (HB 2972) affecting Commissioners throughout the State whose terms have expired but continue to serve on their various Boards and Commissions. This bill would give the Governor 60 days from its effective date to nominate such Commissioners for new terms.
- Commission employees have successfully completed Ethics testing for 2011.
- The Legislative Audit Commission has accepted the Commission's response to the audit of exemptions called for in House Resolution 140. That matter is now concluded.

June 17, 2011

- The bi-annual compliance audit of the Commission for the period ending June 30, 2011 will commence on June 27.

Commissioner Ewell raised the issue of expanding the Commission's ability to issue longer disciplinary suspensions. He noted that this would be helpful in cases that take a longer time to hear than normal and which result in a financial windfall to an offending employee even though the Commission has approved the maximum length disciplinary suspension short of discharge. After general discussion in which all Commissioners participated, it was the consensus to have Commission Staff conduct further investigation into this issue and report back to the Commission at a future date.

XII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, July 15, 2011 at 11:00 a.m. in the Commission's Chicago office.

XIII. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 12:25 P.M.